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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 CLAUDE BROWN,

9 Plaintiff,

10 v.

11 KING COUNTY,

12 Defendant.

C16-1340 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's Motions in Limine, docket no. 91, are GRANTED in part and
16 DEFERRED in part, as follows:

17 A. Motion No. 1: Exclude evidence and testimony relating to
18 Plaintiff's job performance in his Acting Technical Trainer ("ATT") position –
19 DEFERRED to trial;

20 B. Motion No. 2: Exclude evidence of poor job performance prior to
21 any denials of promotions related to Rail Supervisor in Training ("RSIT")
22 recruitments – GRANTED in part, as "Defendant does not intend to offer evidence
23 of Plaintiff's job performance as rationale for its hiring decisions in the 2012 and
2014 [Rail Supervisor in Training ("RSIT")] positions." Def. Response to Plaf.
Motions in Limine (docket no. 96 at 2); DEFERRED to trial in part, as to the
exclusion of such evidence as relevant to Plaintiff's credibility or his conclusion
that his race or his protected activity was the but-for cause of, or a substantial
factor in, Defendant's denials of promotions;

1 C. Motion No. 3: Exclude character evidence unrelated to Defendant's
2 mindset in denying Plaintiff promotional opportunities – GRANTED in part, as to
3 the exclusion of any evidence of character or character traits of Defendant's
4 employees who were the decisionmakers in this case, if offered to prove that on a
5 particular occasion that decisionmaker acted in accordance with that character or
6 character trait. *See* Fed. R. Evid. 404(a)(1), (b)(1); DEFERRED to trial in part, as
7 to the introduction or exclusion of evidence of a decisionmaker's character,
8 character traits, or other acts or wrongs, if offered to prove the decisionmaker's
9 motive or intent with respect to race-based discrimination or hostility. *See*
10 *Heyne v. Caruso*, 69 F.3d 1475, 1479 (9th Cir. 1995) (“[A]n employer's conduct
11 tending to demonstrate hostility towards a certain group is both relevant and
12 admissible where the employer's general hostility toward that group is the true
13 reason behind [taking an adverse action against] an employee who is a member of
14 that group.”);

15 D. Motion No. 8: Allow evidence of Defendant's treatment of other
16 people of color as relevant to show motive and intent – GRANTED. *See id.*;

17 (2) Defendant's Motions in Limine, docket no. 92, are GRANTED in part,
18 DENIED in part, and DEFERRED in part, as follows:

19 A. Motion No. 7: Motion to exclude witnesses not disclosed:

- 20 i. John Kwelese – DENIED;
- 21 ii. Shereese Braun – DEFERRED to trial;
- 22 iii. Vendetta Brown – DENIED as moot, as Plaintiff has withdrawn
23 this witness from his witness list. *See* Joint Pretrial Statement
(docket no. 105 at 5 n.2);
- iv. Alicia Brown – DENIED as moot, as Plaintiff has withdrawn this
witness from his witness list. *See id.*;
- v. Salah Abdi – GRANTED;
- vi. Shannon Shay – GRANTED;
- vii. Sandra Dodge – GRANTED;
- viii. Erin Clarke – DEFERRED to trial;
- ix. John Dibble – GRANTED;
- x. Rachel Price – DEFERRED to trial;

- 1 xi. Jeff Wachtel – DEFERRED to trial;
2 xii. Al Azen – GRANTED;
3 xiii. Keith Sherry – GRANTED;
4 xiv. Brian Matthews – DEFERRED to trial; and
5 xv. Daniel Mathews¹ – DEFERRED to trial.

6 B. Motion No. 20: Limit duplicative testimony regarding Plaintiff's
7 emotional distress – GRANTED. Plaintiff is limited to calling up to three lay
8 witnesses who can testify regarding Plaintiff's emotional distress.

9 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
10 record.

11 Dated this 7th day of June, 2021.

12 William M. McCool
13 Clerk

14 s/Gail Glass
15 Deputy Clerk

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22 ¹ In previous disclosures, Daniel Mathews was incorrectly referred to as David Mathews. *See* Appendix
23 to Def.'s Motions in Limine (docket no. 92 at 28).